

PLANNING COMMISSION
RECOMMENDED CONDITIONS

Case No.: P14-0682

PLANNING COMMISSION HEARING DATE: October 22, 2015

REVISED

RECOMMENDED CONDITIONS & GENERAL INFORMATION NOTES

Case Numbers: **P14-0682** (Conditional Use Permit)

CONDITIONS

Case Specific

The applicant is advised that the business or use for which this conditional use permit is granted cannot be legally conducted on the subject property until all conditions of approval have been met to the approval of the Community and Economic Development Department, Planning Division.

• **Planning**

- ~~1. The proposed stealth wireless telecommunications facility shall be approved at a height of 40 feet with a concurrent one time height modification taken under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, for an ultimate height of 60 feet.~~
- 1. A Monopine tower structure that shall not exceed 60-feet in height and, as represented by the applicant in this case, cannot be increased in height for collocation except through replacement of the tower. The replacement of the tower is a substantial change beyond the approval herein, and shall constitute a new telecommunication facility subject to application and processing pursuant to the City's Zoning Code.**
2. This project shall comply with the City's adopted Noise Code. All construction activity will be restricted to between 7:00 a.m. and 7:00 p.m. weekdays and 8:00 a.m. and 5:00 p.m. Saturdays. No construction noise is permitted on Sundays or federal holidays.
3. The antenna shall be designed in accordance with the FCC standards for professionally acceptable radio frequency emissions for all types of communications towers.
4. The new wireless telecommunication facility shall be designed within the applicable American National Standards Institute (ANSI) standards.
5. Applicant must apply for building permits to begin construction.

Prior to building permit issuance:

6. The applicant will submit a Design Review for the parking lot. An application, along with all applicable materials, will have to be submitted to Planning. All related fees apply.
7. The applicant will submit a Landscape Design Review for the parking lot. An application, along with all applicable materials, will have to be submitted to Planning. All related fees apply.

Staff Required Plan Conditions: Plans submitted for Design Review, staff review and approval shall include the following:

8. Parking spaces on APN 191-030-003, the adjacent parcel to the restaurant, will have to be removed from the site plan. The Parking Analysis will also only reflect the seventeen (17) parking spaces on site.
9. The monopine facility shall not exceed 60 feet in height;
10. The 'bark' shall extend through the top of the antenna structure;
11. Branches shall exceed, at minimum, eighteen (18) inches beyond the antenna arrays;
12. The antenna array face shall be a maximum of six-feet six-inches (6'-6") in width;
13. Antennas shall be covered in 'socks';
14. All related equipment attached to the poles shall be painted to match the trunk or the pine needles of the monopine and shall be substantially screened with branches and leaves; and
15. All wires shall be enclosed within the trunk of the facility and antenna arms.

Staff Required Gate/Fence Plan Conditions: Gate and wall plans submitted for Staff review and approval shall include the following:

- i. The equipment enclosure shall be constructed from a decorative masonry block;
 - ii. A decorative, overhanging cap shall be added to the top of the enclosure, as noted on the plans;
 - iii. All ground mounted equipment shall be surrounded by the masonry block enclosure and shall not be visible;
 - iv. No barbed or razor wire shall be permitted around the equipment enclosure; and
 - v. The southerly facing gate on the enclosure shall be constructed from corrugated metal and painted a neutral color.
16. **Staff Required Landscape/Irrigation Plan Conditions:** Landscaping/irrigation plans shall be submitted with plan check. Design modifications may be required as deemed necessary. Landscaping and irrigation plans must be submitted prior to building permit issuance and shall include the following:
- i. All landscaping shall be permanently irrigated;
 - ii. Landscaping shall be maintained at all times;
 - iii. Four afghan pine trees, 24-inch box, shall be placed, per approved plans, two (2) along La Jackson Street and two (2) inside the parking lot planter;
 - iv. Vines shall be added to all sides of the decorative masonry equipment enclosure; and

- v. All landscaping and irrigation shall be fully installed before a final sign off of the facility can be conducted and release of utilities.

Prior to Release of Utilities:

- 17. The applicant shall obtain approval of all State and local agencies having jurisdiction over this use including the FAA and the FCC as necessary.
- 18. The facility shall be tested to ensure compliance with FCC standards.
- 19. Install the landscape and irrigation per the approved plans and submit the completed "Certificate of Substantial Completion" (Appendix C of the water Efficient Landscaping and Irrigation Ordinance Summary and Design Manual) signed by the Designer/auditor responsible for the project. Call Gaby Adame at (951) 826-5933 to schedule the final inspection at least a week prior to needing the release of utilities.

Operational Conditions:

- 20. All equipment shall be located within the equipment enclosure.
- 21. The stealth wireless telecommunications facility and related support equipment shall be designed to prevent unauthorized persons from accessing and/or climbing them.
- 22. The temporary power generator shall be ~~located within a completely enclosed structure~~ designed to comply with Title 7 (Noise Control) of the Riverside Municipal Code and will only be operated when electrical power is not available.
- 23. Any graffiti on the facility shall be removed within 24 72 hours of notification.
- 24. The subject property shall be developed substantially as shown on the plot plan on file with this case except for any specific modification that may be required by these conditions of approval.
- 25. The wireless telecommunication facility shall be installed and maintained in compliance with the requirements of the Uniform Building Code, National Electrical Code, noise standards, and other applicable codes, as well as other restrictions specified in this section. The facility operator and the property owner shall be responsible for maintaining the facility in good condition, which shall include but not be limited to regular cleaning, painting, and general upkeep and maintenance of the site.
- 26. The wireless telecommunication facilities shall not bear any signs or advertising devices other than certification, warning, or other legally required seals or legally required signage.
- 27. All wireless telecommunication facilities and related support equipment shall be removed within 90 days of the discontinuation of use and the site shall be restored to its original preconstruction condition. The operator's agreeing to such removal shall be a condition of approval of each permit issued. A performance bond, based on a reasonable cost of removal and subject to the approval of the City Planner and City Attorney's Office as to manner and form, shall be required of the applicant and a copy kept on file by the Planning Division.

- **Fire Department**

CONTACT MARGARET ALBANESE AT 951-826-5455 FOR QUESTIONS REGARDING FIRE CONDITIONS OR CORRECTIONS.

THE FOLLOWING TO BE MET PRIOR TO CONSTRUCTION PERMIT ISSUANCE:

28. Requirements for construction shall follow the currently adopted California Building Code and California Fire Code with City of Riverside amendments.
29. Construction plans shall be submitted and permitted prior to construction.
30. Fire Department access is required to be maintained during all phases of construction.

- **Public Works**

31. No comments.

- **Public Utilities – Electric**

CONTACT SUMMER AYALA AT 951-826-2129 FOR QUESTIONS REGARDING PUBLIC UTILITIES (ELECTRIC) CONDITIONS/CORRECTIONS LISTED BELOW.

32. The provision of utility easements, water, street lights and electrical underground and/or overhead facilities and fees in accordance with the rules and regulations of the appropriate purveyor.
33. All utilities shall be satisfactorily relocated, protected and/or replaced to the specifications of the affected departments and agencies, and easements for such facilities retained as necessary.

- **Public Utilities – Water**

34. No comments.

- **Park and Recreation**

35. No comments.

- **Airport Influence Area**

36. Any new outdoor lighting that is installed shall be hooded or shielded so as to prevent either the spillage of lumens or reflections into the sky.
37. The following uses shall be prohibited:
 - a. Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in a straight final approach toward a landing at an airport, other than a FAA-approved navigational signal light or visual approach slope indicator.

- b. Any use which would cause sunlight to be reflected toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach towards a landing at an airport.
- c. Any use which would generate smoke or water vapor or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area, including but not limited to, composting operations, trash transfer stations that are open on one or more sides, recycling centers containing putrescible wastes, construction and demolition debris facilities, landscaping utilizing water features, aquaculture, production of cereal grains, sunflower, and row crops, artificial marshes, incinerators, and fly ash disposal.
- d. Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instruments.

- **FAA Compliance Conditions**

- 38. The Federal Aviation Administration has conducted an aeronautical study of the proposed structure (Aeronautical Study No. 2014-AWP-8479-OE) and has determined that neither making nor lighting of the structure is necessary for aviation safety. However if marking and/or lighting for aviation safety are accomplished on a voluntary basis, such marking and/or lighting (if any) shall be installed in accordance with FAA Advisory Circular 70/7460-1 K Change 2 and shall be maintained in accordance therewith for the life of the project.
- 39. The maximum height of the proposed structure shall not exceed 60 feet above ground level, and the maximum elevation of the proposed structure, including all towers and antennas, shall not exceed 801 feet above mean sea level.
- 40. The specific coordinates, height, top point elevation of the proposed structure, frequencies, and power shall not be amended without further review by the City of Riverside and the Federal Aviation Administration; provided, however, that reduction in building height or elevation shall not require further review by the City of Riverside.
- 41. Temporary construction equipment used during actual construction of the structure shall not exceed the height of the structure, unless separate notice is proved to the Federal Aviation Administration through the Form 7460-1 process.
- 42. Within five (5) days after construction of the structure reaches its greatest height, FAA Form 7460-2 (Part II), Notice of Actual Construction or Alteration, shall be completed by the project proponent or his/her designee and e-filed with the Federal Aviation Administration. (Go to <https://oeaaa.faa.gov> for instructions.) The requirement is also applicable in the event the project is abandoned.
- 43. The telecommunications facility shall be designed in such a manner as to ensure that spurious signal levels from the proposed transmittal will be less than -104dBm in the 108-137, and 225-400MHz frequency and at a distance of 3,300 feet from the transmitter site, in accordance with the requirements for the Federal Aviation Administration Obstruction Evaluation Service letter dated Jan 23, 2015, a copy of which attached hereto and incorporated herein by reference.
- 44. The following condition must include verbatim on the building permit, as a condition to the Determination of No Hazard (P.2 of the FAA Letter issued on Jan 23, 2015): "Upon receipt of

notification from the Federal Communications Commission that harmful interference is being caused by the permittee's transmitter, the permittee shall either immediately reduce the power to the point of no interference, cease operation, or take such immediate corrective action as is necessary to eliminate the harmful interference. The condition expires after 1 year of interference-free operation."

Standard Conditions

- **Planning**

45. The Project must be completed per the Site Plan Review and Design Review approved by the Planning Commission, including all conditions listed in this report. Any substantial changes to the Project must be approved by the Planning Commission or minor modifications by Design Review Staff. Upon completion of the Project, a Design Review Staff inspection must be requested, and **UTILITIES** will not be released until it is confirmed that the approved plans and all conditions have been implemented.
46. Within 30 days of approval of this case by the City, the developer shall execute an agreement approved by the City Attorney's Office to defend, indemnify, including reimbursement, and hold harmless the City of Riverside, its agents, officers and employees from any claim, action, or proceeding against the City of Riverside, its agents, officers, or employees to attack, set aside, void, or annul, an approval by the City's advisory agency, appeal board, or legislative body concerning this approval, which action is brought within the time period provided for in Section 66499.37 of the Government Code. The City will promptly notify the developer of any such claim; action or proceeding and the City will cooperate in the defense of the proceeding.
47. This approval is for design concept only, and does not confirm the project has been thoroughly checked for compliance with all requirements of law. As such, it is not a substitute for the formal building permit plan check process, and other changes may be required during the plan check process.
48. There is a two (2) year time limit on this approval. Should the applicant or designee not obtain necessary Building permits or initiate operation within two (2) years following the CUP approval date, the CUP shall become null and void.
49. This Project shall fully and continually comply with all applicable conditions of approval, State, Federal and local laws in effect at the time the permit is approved and exercised and which may become effective and applicable thereafter, and in accordance with the terms contained within the staff report and all testimony regarding this case. Failure to do so will be grounds for Code Enforcement action, revocation or further legal action.
50. This use permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to public safety, property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
51. The applicant shall comply with all federal, state and local laws and shall cooperate with the Riverside Police Department (RPD) in the enforcement of all laws relating to this permit. Material violation, as determined by the City Planning Commission, of any laws in connection with this use or failure to cooperate with RPD will be cause for revocation of this permit.

52. This permit is issued based upon the business operations plan and information submitted by the applicant, which has been used as the basis for evaluation of the proposed use in this staff report and for the conditions of approval herein. Permittee shall notify Community and Economic Development Department, Planning Division, of any change in operations and such change may require a revision to this permit. Failure to notify the city of any change in operations is material grounds for revocation of this conditional use permit.
53. The applicant herein of the business subject to this conditional use permit acknowledges all of the conditions imposed and accepts this permit subject to those conditions and with the full awareness of the provisions of Title 19 of the Riverside Municipal Code. The applicant shall inform all its employees and future operators of the business subject to this permit of the restrictions and conditions of this permit as they apply to the business operations.
54. Failure to abide by all conditions of this permit shall be cause for revocation.
55. The plans shall be submitted for plan check review to assure that all required conditions have been met prior to exercising of this permit.
56. The subject property shall be developed and operated substantially as described in the text of this report and as shown on the plot plan on file with this case except for any specific modifications that may be required by these conditions of approval.
57. The applicant shall continually comply with all applicable rules and regulations in effect at the time permit is approved and exercised and which may become effective and applicable thereafter.
58. Enumeration of the conditions herein shall not exclude or excuse compliance with all applicable rules and regulations in effect at the time this permit is exercised.
59. A copy of the Conditional Use Permit and the final Conditions of Approval shall be available at the site and presented to City staff, including the Police Department and Code Enforcement, upon request. Failure to have the latest approved conditions available upon request will be grounds for revocation.

GENERAL INFORMATION NOTES

Appeal Information

- a. Actions by the City Planning Commission, including any environmental finding, may be appealed to the City Council within ten calendar days after the decision.
- b. Appeal filing and processing information may be obtained from the Planning Department Public Information Section, 3rd Floor, City Hall.